



3732

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application

Inventor(s): Zucherman, et al.
SC/Serial No.: 09/842,819
Confirm. No.: 2799
Filed: April 26, 2001
Title: SUPPLEMENTAL SPINE FIXATION DEVICE
AND METHOD

PATENT APPLICATION

Art Unit: 3732

Examiner:

Customer No. 23910

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JUN - 3 2002
TECHNOLOGY CENTER R3700

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

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(Attorney Signature)

Sheldon R. Meyer, Reg. No. 27,660
Signature Date: May 23, 2002

TRANSMITTAL LETTER

Commissioner for Patents
Washington, DC 20231

Sir:

Transmitted herewith are the following:

- ✓ Supplemental Information Disclosure Statement under 37 C.F.R. §1.56 with cited references.
- ✓ No fee is required with this communication.
- ✓ The Commissioner is hereby authorized to charge underpayment of any additional fees associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

Date: May 23, 2002

By:

Sheldon R. Meyer
Reg. No. 27,660

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Telephone: (415) 362-3800



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#9

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SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Commissioner for Patents
Washington, DC 20231

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Notwithstanding anything stated herein, a copy of each of the references listed herein is attached to this disclosure.

This disclosure may include references previously cited. However, these references are attached hereto for completeness.

Enclosed with this statement are the following:

- ☒ Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- ☒ A copy of each cited document as required by 37 C.F.R. §1.98. Copies are not submitted of documents previously submitted by the applicant in a parent application from which benefit under 35

U.S.C. §120 is claimed, 37 C.F.R. §1.98(d)(1), with an information disclosure statement submitted in the parent application which complies with the Sept. 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c). If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— **PTA Statement under 37 C.F.R. §1.704(d).** Each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the information disclosure statement.

This statement should be considered because:

☒ **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

- (1) It is being filed before the mailing date of a FINAL office action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (check at least one of the following) --

- (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
-- OR --
- (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

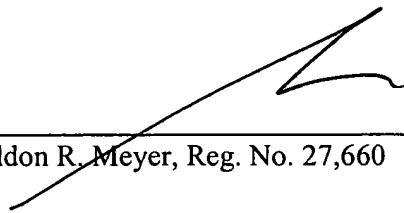
- (1) It is being filed on or before payment of the issue fee;
-- AND --
- (2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
-- AND --
- (3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge underpayment of any additional fees or credit any overpayment associated with this communication to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER DUBB MEYER & LOVEJOY LLP

Date: May 23, 2002

By: 
Sheldon R. Meyer, Reg. No. 27,660

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Form PTO-1449
(Substitute)U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICEAttorney Docket Number
KLYC-01033US4 SRMSerial/Patent Number
09/842,819**INFORMATION DISCLOSURE STATEMENT
BY APPLICANT**

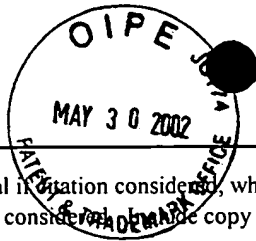
(Use several sheets if necessary)

Applicant/Patent Owner
Zucherman, et al.**RECEIVED**Filing/Issue Date
April 26, 2001Group Art Unit:
3732 JUN - 3 2002**U.S. PATENTS**

| Examiner Initial | | Patent Number | Issue Date | First Named Inventor | TECHNOLOGY CENTER | | R3700 Filing Date |
|---------------------|-----|---------------|------------|----------------------|-------------------|----------|-------------------------|
| | | | | | Class | Subclass | |
| | U1 | 6,234,705 B1 | 5-2001 | Troxel | | | |
| | U2 | 6,156,067 | 12-2000 | Bryan et al. | | | |
| | U3 | 6,113,639 | 9-2000 | Ray et al. | | | |
| | U4 | 6,001,130 | 12-1999 | Bryan et al. | | | |
| | U5 | 5,888,224 | 3-1999 | Beckers et al. | | | |
| | U6 | 5,766,252 | 6-1998 | Henry et al. | | | |
| | U7 | 5,676,702 | 10-1997 | Ratron | | | |
| | U8 | 5,674,296 | 10-1997 | Bryan et al. | | | |
| | U9 | 5,505,732 | 4-1996 | Michelson | | | |
| | U10 | 5,458,643 | 10-1995 | Oka et al. | | | |
| | U11 | 5,443,514 | 8-1995 | Steffee | | | |
| | U12 | 5,390,683 | 2-1995 | Pisharodi | | | |
| | U13 | 5,306,309 | 4-1994 | Wagner et al. | | | |
| | U14 | 5,167,662 | 12-1992 | Hayes et al. | | | |
| | U15 | 5,123,926 | 6-1992 | Pisharodi | | | |
| | U16 | 4,946,378 | 8-1990 | Hirayama et al. | | | |
| | U17 | 4,878,915 | 11-1989 | Brantigan | | | |
| | U18 | 4,834,757 | 5-1989 | Brantigan | | | |
| | U19 | 4,790,303 | 12-1988 | Steffee | | | |
| | U20 | 4,599,084 | 7-1986 | Nashef | | | |
| | U21 | 4,599,086 | 7-1986 | Doty | | | |
| | U22 | 4,501,269 | 2-1985 | Bagby | | | |



| FOREIGN PATENT DOCUMENTS | | | | | | | | |
|--|-----|--|------------------|-----------------|-------|----------|--|--|
| Examiner Initial | | Document Number | Publication Date | Country | Class | Subclass | Trans- lation Yes <input type="checkbox"/> No <input type="checkbox"/> | |
| | F1 | EP 1138268 A1 | 10-2001 | EPO | | | | |
| | F2 | FR 2806616 A1 | 9-2001 | France | | | | |
| | F3 | FR 2806614 A1 | 9-2001 | France | | | | |
| | F4 | WO 01/28442 A1 | 4-2001 | PCT | | | | |
| | F5 | WO 00/04851 | 2-2000 | PCT | | | ✓ | |
| | F6 | WO 00/13620 | 3-2000 | PCT | | | ✓ | |
| | F7 | WO 00/13619 | 3-2000 | PCT | | | ✓ | |
| | F8 | FR 2782911 A1 | 3-2000 | France | | | * | |
| | F9 | FR 2780269 A1 | 12-1999 | France | | | * | |
| | F10 | WO 99/59669 | 11-1999 | PCT | | | ✓ | |
| | F11 | WO 99/42051 | 8-1999 | PCT | | | * | |
| | F12 | WO 99/40866 | 8-1999 | PCT | | | * | |
| | F13 | WO 99/26562 | 6-1999 | PCT | | | * | |
| | F14 | WO 98/48717 | 11-1998 | PCT | | | * | |
| | F15 | EP 0767636 B1 | 4-1997 | EPO | | | * | |
| | F16 | FR 2722980 A1 | 2-1996 | France | | | * | |
| | F17 | EP 0677277 A2 | 10-1995 | EPO | | | * | |
| | F18 | FR 2717675 | 9-1995 | France | | | * | |
| | F19 | FR 2707864 A1 | 1-1995 | France | | | * | |
| | F20 | WO 94/26192 | 11-1994 | PCT | | | * | |
| | F21 | WO 94/21185 | 9-1994 | PCT | | | ✓ | |
| * English Abstract attached | | | | | | | | |
| OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages) | | | | | | | | |
| | O1 | Haruo Tsuji, et al., <i>Ceramic Interspinous Block (CISB) Assisted Anterior Interbody Fusion</i> , Journal of Spinal Disorders, Vol.3, No.1, pp.77-86, ©1990 Raven Press, Ltd., New York | | | | | | |
| | O2 | Richard W. Porter, MD, FRCS, FRCSE, <i>Spinal Stenosis and Neurogenic Claudication</i> , SPINE Volume 21, Number 17, pp.2046-2052, ©1996, Lippincott-Raven Publishers | | | | | | |
| Examiner | | | | Date Considered | | | | |



*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Make copy of this form with next communication to applicant.

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*1 = Copy not submitted because it was submitted in prior application SN ___ / ___, filed ___, 20___, relied on under 35 USC § 102
*2 = Copy not submitted because it was submitted in prior application SN ___ / ___, filed ___, 20___, relied on under 35 USC § 120.

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